IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 20TH NOVEMBER 2007 / 29TH KARTHIKA 1929

Bail Appl..No. 6394 of 2007()

PETITIONER :

Y.GEORGE, THOTTACKKAKATH HOUSE,
THOTTAKKATTUKARA P.O., ALUVA-683 108.

BY ADV. SRI.K.M.V.PANDALAI

RESPONDENTS:
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1. **STATE OF KERALA REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.**

2. **DEPUTY SUPERINTENDENT OF POLICE, CRIME BRANCH CID, ALLEPPEY.**

3. **CIRCLE INSPECTOR OF POLICE, CB CID, ALLEPPEY.**

BY PUBLIC PROSECUTOR SRI.S.U.NAZER

THIS BAIL APPLICATION HAVING BEEN FINALLY HEARD ON 20/11/2007, ALONG WITH BA. NO.7144/2007 THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

B.A.Nos.6394 & 7144 of 2007

Dated this the 20th day of November 2007

O R D E R

Application for anticipatory bail. The petitioner apprehends arrest in two crimes both under the Kerala Abkari Act which is now being investigated by the CBCID as Crime Nos.208 & 209/CR/2000 of CBCID, Alappuzha.

2. In the month of June 1999, two instances of rectified spirit brought into Kerala on the basis of a transit permit not reaching the destination was detected. Both were consignments of 24,000 litres of rectified spirit. On 3/6/1999 and 18/6/1999, these consignments had allegedly entered Kerala for the purpose of passing through Kerala to its destination at Goa. It was revealed that the articles were delivered in the premises of a distillery by name Thottakkatt distillery at Aluva of which the petitioner is admittedly the licensee. The petitioner has subsequently been arrayed as the eighth accused in both these crimes. Investigation is in progress. The petitioner has not been arrested yet.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. Though he was the licensee at the relevant time, he had only a minimal fractional

interest in the business that was run in partnership. In these circumstances, the petitioner may be saved of the trauma of undeserved arrest and detention by issue of directions under Section 438 Cr.P.C, submits the learned counsel for the petitioner.

3. The learned Public Prosecutor opposes the application. The learned Public Prosecutor submits that the petitioner is required for interrogation. Interrogation of the petitioner is absolutely essential for a proper resolution and chargesheeting of the crimes. The crimes were committed as early as in 1999. The investigation has to be completed expeditiously. The petitioner may not be permitted to arm himself with an order of anticipatory bail in this case. The interest of a proper and efficient investigation demands that the petitioner must be made available for interrogation and arrest, if necessary.

4. Having considered all the relevant inputs, I find merit in the opposition by the learned Public Prosecutor. I am satisfied that there are no features in this case which would justify invocation of the extraordinary equitable discretion under

Section 438 Cr.P.C. I agree with the learned Public Prosecutor that it is not expedient in the interests of justice to permit the petitioner to arm himself with an order of anticipatory bail. The petitioner must co-operate with the investigating officer. This is a fit case where the petitioner must appear before the investigating officer or the learned Magistrate having jurisdiction and then seek regular bail in the normal and ordinary course.

5. In the result, these petition are dismissed. Needless to say, if the petitioner surrenders before the investigating officer or the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously.

(R.BASANT, JUDGE)

jsr

// True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007